



TACOMA HOUSING AUTHORITY

RESOLUTION 2010-1-7(1)

DATE: January 7, 2010
TO: Board of Commissioners
FROM: Michael Mirra, Executive Director
RE: Salishan Seven: Execution of Documents

Background

This resolution comes to the Board as a request from the U.S. Department of Housing and Urban Development (HUD). It is necessary to allow THA to close the financial phase, Salishan 7.

In 2008, pursuant to 24 CFR part 990, subpart H, THA established the business unit within THA (the “Central Office Cost Center” or “COCC”) to receive fee income (as opposed to “program income”). Those same regulations require THA to assign to the COCC certain assets that are no longer necessary for the operation of public housing projects. Pursuant to its Notice No. PIH 2008-17 (HA), HUD provided guidance on how THA may dispose of these assets to the COCC without recognizing program income as a result of such transfer (or requiring that certain payments be made to the federal government).

As with other phases of the Salishan redevelopment project, THA has requested that HUD provide THA with a partial release of HUD’s declarations of trust that are recorded against the property. However, unlike other phases of the Salishan redevelopment project, there will be no public housing units included among Salishan Seven’s rental housing units. Therefore, THA will be required to transfer the property relating to Salishan Seven and the Area 2B infrastructure from THA’s public housing assets to the COCC. Generally, THA would be required under 24 CFR part 85.31(c)(1) to reimburse HUD for the proportionate share of the fair market value of the property (based on the federal government’s participation in the original cost of the property). However, THA may request an exception under 24 CFR part 85.6(c) from this requirement to reimburse the federal government. HUD’s Notice No. PIH 2008-17 (HA) described the process by which such an exception may be requested.

The Board of Commissioners, by Resolution Nos. 2009-10-28(4) and 2009-11-18(5), authorized THA to execute various agreements and other documents pertaining to the financing of infrastructure improvements in Area 2B of the Salishan redevelopment site and the financing of a 91-unit rental housing project known as Salishan Seven. The proposed resolution is intended to supplement the authority granted by the earlier resolution so THA can request an exception under 24 CFR part 85.6(c), as specified in HUD’s Notice No. PIH 2008-17 (HA).

Recommendation

Approve Resolution No. 2010-1-7(1) authorizing the Executive Director to approve, execute and deliver documents necessary to obtain HUD's approval to remove the Declarations of Trust from the Salishan Seven property, to reassign such property to THA's COCC and to grant an exception under 24 CFR part 85.6(c) to the requirement that THA reimburse the federal government for its equity investment in the property.



TACOMA HOUSING AUTHORITY

RESOLUTION 2010-1-7(1)

SALISHAN SEVEN: EXECUTION OF DOCUMENTS

Whereas, the Housing Authority of the City of Tacoma (the “Authority”) seeks to encourage the provision of long term housing for low income persons residing within the City of Tacoma, Washington (the “City”);

Whereas, the Authority intends to construct 91 rental dwelling units as part of the Salishan Seven component of the Authority’s Salishan redevelopment project to provide housing for low-income persons within the City (the “Project”), and to acquire, construct and install infrastructure improvements that will facilitate the development of the Project and other housing in the vicinity thereof;

Whereas, the U.S. Department of Housing and Urban Development (“HUD”) currently has Declarations of Trust recorded in the real property records of Pierce County, Washington, affecting the property upon which the Project and related infrastructure improvements will be developed (the “Property”), which Declarations of Trust must be partially released to facilitate the financing of the Project and the infrastructure improvements;

Whereas, in connection with its request to HUD that said Declarations of Trust be removed, the Authority deems it necessary to the financial feasibility of the Project that the Authority obtain an exception under 24 CFR part 85.6(c) from the provisions of 24 CFR part 85.31(c)(1) that otherwise would require the Authority to reimburse HUD for the proportionate share of the fair market value of the Property subject to said partial release of the Declarations of Trust;

Whereas, the Authority wishes to undertake those steps as may be necessary, reasonable and/or advisable for it to obtain such exception; and

Whereas, RCW 35.82.040 authorizes the Authority to “delegate to one or more of its agents or employees such powers or duties as it may deem proper”; NOW, THEREFORE,

Resolved by the Board of Commissioners of the Housing Authority of the City of Tacoma, Washington that:

1. Request to Remove the Declarations of Trust. The Authority requests approval from HUD to remove the Declarations of Trust from the Property. To support such request, the Board finds and determines that there is good cause for such action because (i) the Authority will have replaced (after the Project is completed) 855 public housing units that had previously existed at the Salishan redevelopment site with 950 affordable housing units serving households with incomes at or below 60% of AMGI, and (ii) the Project is targeted for residents with incomes at or below 60% AMGI (with 45 of the units being set aside for tenants with incomes at or below 30% AMGI), thereby addressing needs to provide for such tenants at the Salishan redevelopment site.

2. Request for Exception Under 24 CFR Part 85.6(c). The Authority requests an exception under 24 CFR part 85.6(c) from the provisions of 24 CFR part 85.31(c)(1) that would otherwise require the Authority to reimburse HUD for the proportionate share of the fair market value of the Property subject to the partial release of the Declarations of Trust requested by Section 1 of this resolution. The Authority expects to incur debt obligations in the aggregate amount of \$20,840,923 to finance the development of the Project and the related infrastructure improvements. Because of its commitment to maintain rent restrictions and to target low and very low income tenants for the Project, the Authority does not expect to derive income from the Project that would be sufficient to pay the Project's capital and operating costs, as well as the reimbursement payment that otherwise might be required by 24 CFR part 85.31(c)(1).
3. Fair Market Value of the Property. The Board finds and determines that the fair market value of the Property is \$297,617. This finding and determination is based on the fair market value appraisal dated September 23, 2009, for 25 acres of land that include the 5.17 acres that comprise the Property.
4. Finding Regarding the Authority's Operation of Public Housing. The Board further finds and determines that the disposition or reassignment of the Property to the COCC will not be detrimental to the operation of public housing for the Authority because (i) no public housing units currently are located on the Property, and (ii) the redevelopment of the Salishan site has resulted in the development of 290 public housing units operated by, or under the control of, the Authority.
5. Amendment of Public Housing Agency Plan. The Authority's Public Housing Agency Plan required by 24 CFR part 903 (the "PHA Plan") shall be amended to reassign the Property to the COCC. The PHA must include the disposition or reassignment in their PHA Plan. The Executive Director and his designees are authorized and directed to reflect such reassignment in the PHA Plan.
6. Preparation of Request Package. The Executive Director and his designees are authorized and directed to prepare, execute and deliver to HUD, on behalf of the Authority, a request package that includes: (i) a request for removal of the Declarations of Trust (including statements showing good cause for such request) and reassignment of the non-dwelling property to the COCC, (ii) a request for an exception under 24 CFR part 85.6(c) to reimburse the federal government for its equity in the project (including statements showing good cause for such request), (iii) a copy of this resolution, and (iv) if required by HUD, the amended PHA Plan.
7. Supplemental Authorization. The Executive Director is further authorized and directed on behalf of the Authority to execute and deliver and, if applicable, file any government forms, affidavits, certificates, letters, documents, agreements and instruments that such officer determines to be necessary or advisable to give effect to this resolution and to consummate the transactions contemplated herein.

8. Acting Officers Authorized. Any action required by this resolution to be taken by the Executive Director of the Authority may in his absence be taken by either the Chairman of the Board or the duly-authorized acting Executive Director of the Authority;
9. Ratification and Confirmation. Any actions of the Authority or its officers prior to the date hereof and consistent with the terms of this resolution are ratified and confirmed; and
10. Effective Date. This resolution shall be in full force and effect from and after its adoption and approval.

Approved: January 7, 2010

Ken Miller, Chairman

CERTIFICATE

I, the undersigned, the duly chosen, qualified and acting Executive Director of the Housing Authority of the City of Tacoma (the "Authority") and keeper of the records of the Authority, CERTIFY:

1. That the attached Resolution 2010-1-7(1) (the "Resolution") is a true and correct copy of the resolution of the Board of Commissioners of the Authority (the "Board"), as adopted at a special meeting of the Authority held on January 7, 2010, and duly recorded in the minute books of the Authority;

2. That I caused a written copy of the notice of special meeting in the form attached to this certificate to be sent personally, by fax or electronic mail sent at least 24 hours before the time scheduled for said meeting, to each member of the Board of Commissioners, to each local newspaper of general circulation, and to each local radio or television station which has on file with the Board of Commissioners a written request to be notified of special meetings; and

3. That a quorum was present throughout the meeting and a majority of the members of the Board of Commissioners of the Authority present at the meeting voted in the proper manner for the adoption of the Resolution;

4. That all other requirements and proceedings incident to the proper adoption of the Resolution have been duly fulfilled, carried out and otherwise observed; and

5. That I am authorized to execute this Certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of January, 2010.

HOUSING AUTHORITY OF THE
CITY OF TACOMA

Michael Mirra, Executive Director